83-582

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CLERK

No. _____

In the Supreme Court of the United States

October Term, 1983

John Meredith Jones, III, et ux
Petitioners,

vs.

The State of North Carolina
and Myrtle Adams Forehand, et al
Respondents,

Petition for a Writ of Certiorari in the United States Court of Appeals for the Fourth Circuit

John Meredith Jones, III
524 W. Bay St. Villas
Winter Garden, Florida 32787
Telephone: (305) 656-5742
Petitioner et ux, Pro Se

October 8, 1983

Drakes Printing & Copy Center Inc., 225 N. Magnolia Ave., Orlando, Florida 32801

QUESTION PRESENTED

Does the U.S. Court of Appeals, for the Fourth Circuit have jurisdiction over the rights guaranteed to United States citizens by the Federal Constitution, and over the U.S. District Court for Eastern North Carolina, in the granting of a Writ of Mandamus for the review and relocation of a Petition for Removal for an action in the State Courts of North Carolina, denying these Petitioners their Constitutional rights to due process with a jury trial in the condemnation of land grant lands, belonging entirely to them and other immediate family members in five equal shares?

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Wissner v. Wissner - 201 P.2, 837, 843, 844
Pennoyer v. Neff - 95 U.S. 733, 34 L.Ed. 565
Zeigler v. Railroad Co. - 58 Ala. 599
Brown v. Levee Com'rs - 50 Misc. 468
Davidson v. New Orleans - 96 U.S. 104, 24 L.Ed. 616
Nebbia v. People of State of New York, NY - 291, U.S. 502
People v. Dugan - 82 N.E. 201, 482, 484, 401, Ill. 442
U.S.C.D. Const. Amend. 7. Ranson v. Stass Milling Co. DC VT 2 F.R.D. 128, 130, 131

Statutes

28 U.S.C. § 41 Fourth Circuit includes North Carolina and Virginia with others.
28 U.S.C. § 46 Paragraphs (b) and (c) Jurisdiction established thereby.
28 U.S.C. § 48 Circuit location, in Richmond, Virginia.
28 U.S.C. § 113 Paragraph (a) Dare County, N.C. is situated in the U.S. District Court for Eastern North Carolina
28 U.S.C. § 1651 Writs.

Miscellaneous

Daniel Webster defined "Due Process" as that which hears before it condems, which proceeds on inquiry and renders judgment only after trial (in this case a trial by jury, as stipulated in the Seventh Amendment).

In the Supreme Court of the United States

October Term, 1983

John Meredith Jones III et ux

Petitioners,

vs.

The State of North Carolina
and Myrtle Adams Forehand et al

Respondents,

Petition for a Writ of Certiorari in the United States Court of Appeals for the Fourth Circuit

COURT OF APPEALS

These Petitioners filed a Petition for Removal and a Writ of Mandamus with the U.S. Court of Appeals for the Fourth Circuit on the 18th day of April 1983; seeking the removal of North Carolina Case No. 79 CVS 225 as docketed on appeal with assigned No. 821SC1315 from the North Carolina Superior Court System as filed in Dare County, North Carolina, situs of the lands subject to the condemnation proceeding instituted by the Sovereign State of North Carolina on December 5, 1979. The Writ of Mandamus was sought concurrently with the Petition for Removal to avoid altogether the jurisdiction of the U.S. District Court for Eastern North Carolina due to the obvious and totally unwarranted prejudice of Chief Judge Frank Dupree against these Petitioners in his very detrimental denial of a vital depostion sought for U.S. Case No. 76-254-Orl-Civ-R. Judge Dupree's position and influence on the Court he supervises precludes the removal of the action to the proper jurisdiction of his

court for adjudication. In the memorandum in support of these Petitioners' pleas for Removal and Writ of Mandamus, they expressed a preference, if their Petition and Writ are granted, to remove the proceeding to the U.S. District Court for Eastern Virginia, sitting in Norfolk, Virginia, because of its proximity to Dare County, North Carolina, and the lands involved. In declaring that these Petitioners wanted the action below removed to the Federal Court in Norfolk, the Appellate panel has misconstrued their pleading entirely. It is their desire to remove this condemnation lawsuit from the North Carolina Court System, which has displayed sheer indifference to the U.S. Constitution in the repeated denial of due process with a trial by jury, as demanded by them as their right. And at the same instance, they have pled to avoid the implicated U.S. District Court for Eastern North Carolina, that is recognized as being prejudiced against them. Based on an erroneus assumption, the U.S. Court of Appeals for the Fourth Circuit dismissed the Petition for Removal and Writ of Mandamus, claiming it lacked proper juridiction in this instance.

GROUNDS ON WHICH JURISDICTION IS INVOKED

The Court of Appeals for the Fourth Circuit issued its dismissal of these Petitioners' pleas on July 11, 1983. This Court has jurisdiction to review the judgement of the Court of Appeals by Writ of Certiorari pursuant to Title 28 U.S.C. § 1254.

STATUTORY PROVISIONS INVOLVED

The fifth, seventh and fourteenth Amendments to the U.S. Constitution guaranteeing that U.S. citizens shall not be denied property without due process or taken for public use without just compensation are the constitutional provisions involved.

Additionally Title 28 of the United States code, Section 41, 46 (b) and (c), 48, 113, and 1651 are the statutory provisions involved.

STATEMENT OF THE CASE

The jurisdiction of the Federal Courts was invoked because of the repeated denial of these Petitioners' U.S. Constitutional rights, by first one rotating North Carolina Superior Court judge after another, to a jury trial in the condemnation of land grant lands dating from 1897, belonging entirely to them and other immediate family members. The lands, comprising four and a fraction acres of sound shore property, adjacent to the Jockey's Ridge State Park at Nags Head in Dare County, North Carolina, with a value greatly in excese of $10,000, were condemned and arbitrarily divided by the original Court without a jury trial, as demanded by these Petitioners. Upon appeal to the North Carolina Court of Appeals, these Petitioners' motions for dismissal of the judgement below and the ordering of a trial by jury were all denied, whereupon their Petition for Removal and Writ of Mandamus was filed with the U.S. Court of Appeals for the Fourth Circuit. It has been almost four years since the State of North Carolina filed this egregious invasion of these Petitioners' property rights. Not one cent of compensation has been paid to any of the lawful owners, while the litigation, stretches on and on, with the additional denial of these Petitioners' rights to a speedy trial. The resident judge accommodated counsel for certain defendants and the Plaintiff by appointing an unwarranted Guardian Ad Litem in the Malicious Abuse of Legal Process to let in additional false claimants to the lands long after the statutory limit and abritrarily extended deadline for answering the State's complaint had expired. No justice exists in the State of North Carolina Courts for this case and recognizing this reality

these Petitioners' are hereby invoking the protection afforded them by the Federal Courts in upholding their U.S. Constitutional Rights to the Due Process Clause of the Fourteenth Amendment as well as the pertinent sanctions of the Fifth and Seventh Amendments, thereof.

REASONS FOR GRANTING WRIT

1. The dismissal of the Court of Appeals misconstrued these Petitioners' pleading. They are not seeking a trial by jury in the Norfolk, Virginia, Federal Court, but rather the removal of the litigation from the North Carolina Court System into Federal jurisdiction, excluding the U.S. District Court for Eastern North Carolina, where this Pro Se pleader has no standing against members of the North Carolina Bar. The proximity of the U.S. District Court for Eastern Virginia lends itself as a suitable forum for its impartiality and accommodation to the situs of the case at hand.

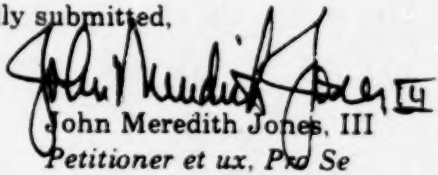
2. In dismissing these Petitioners' pleas, the Appellate Court is turning its back on the time honored principle that if property is taken in violation of the U.S. Constitution, the owners have a justicable claim in the Federal Courts.

CONCLUSION

The State of North Carolina has filed an eminent domain action seeking to acquire lands belonging to these Petitioners' and immediate family members. The North Carolina State Courts have denied these Petitioners' demands for due process with a trial by jury to determine need, ownership and just compensation. These Petitioners' have filed a Petition for Removal simultaneously with a Writ of Mandamus to the U.S. Court of Appeals for the Fourth Circuit, due to the recognized prejudice against them, existing in the

proper U.S. District Court for this action. For these and all other Constitutional and statutory reasons cited herein, a Writ of Certiorari should issue to review the dismissal of the Fourth Circuit.

Respectfully submitted,



John Meredith Jones, III
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524 W. Bay St. Villas
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Telephone: (305) 656-5742

October 8, 1983

I.

ORDER DENYING MOTION IN RESPONSE TO BRIEF BY NORTH CAROLINA COURT OF APPEALS

Mr. J. Meredith Jones
Mrs. Elvira Jones
524 W. Bay Street Villas
Winter Garden, Florida 32787

Re: State v Forehand, et al
No: 821SC1315

Dear Mr. Jones:

The following order has been entered in the above referenced case:

"The motion filed in this cause on the 7th day of February, 1983, and designated Motion in Response to Brief etc, is denied.

By order of the Court this 16th day of February, 1983."

Sincerely,

/s/ Francis E. Dail
Clerk

II.

MOTION IN RESPONSE TO BRIEF
AND FOR A JURY TRIAL

First Judicial District
North Carolina Court of Appeals
No. 821SC1315

State of North Carolina
v.
J. Meredith Jones et ux, et al

From Dare County, N.C.
No. 79 CVS 225

DEFENDANT - APPELLANT ET UX'S MOTION IN RESPONSE TO THE BRIEF OF SOUTHHOLD REALTY CORPORATION AND TO REQUEST DENIAL OF APPEAL PENDING; DENIAL OF THE RULINGS OF JUDGES SMALL, WINBERRY AND BATTLE IN THE CASE; AN INJUCTION AGAINST FURTHER ADJUDICATION AND ALLOTTED DISTRIBUTION OR DISBURSEMENT; AND THE TAKING OF LANDS.

Now comes the defendant - appellant et ux, J. Meredith Jones, and declares that the testimony of th witnesses and evidence cited in the brief filed by Southhold Realty Corporation, an unlawful party to this lawsuit, as result of the appointment of the unwarranted Guardian Ad Litem by Judge Small in his Malicious Abuse of Legal Process, are false and unrelated to the facts.

Now therefore the defendant-appellant states for the record the following assertions of fact:

1. Frank R. Jones, the younger brother of this defendant-appellant's father filed a legal platted claim for all of the property deeded to W.H. Jones, deceased, by the Plaintiff's land grant in 1897, with the Register of Deeds in Dare County in 1936. He filed this claim for the heirs of his father, John Meredith Jones, brother of William Hancock Jones, the land grantee. Frank R. Jones died in 1964 without heirs or the division of the

property in any way whatsoever. He acquired the property for himself, his siblings and their heirs by adverse possesion in 1956, nine years before he died. He did not give the property to Clyde Adams, as was stated under oath, nor did he instruct his widow to do what dhe did. The deed form his sisters, Julia Jones Marriner and Mary Jones Coffield in 1956 was null and void, since the title by adverse possesion had not been perfected at that time, contrary to Attorney Chears' counsel. The deed from Frank R. Jones' widow, Clara Dawson Jones, to Clyde Adams in 1970, was without notice to the other heirs and contrary to the well established legal procedure in North Carolina for the division of lands held in joint tenancy, and is invalid. The claim of Myrtle A. Forehand to 3/10ths of the lands is without basis in law. At the very best she was an unauthorized caretaker for the legitimate heirs/owners, and infact is obligated to them for her occupancy from 1970 to 1979 without their full knowledge and/or unanimous consent. Any entitlement to which she aspired by adverse possesion was not obtainable prior to 1990 at the earliest based on her own testimony, and it was estopped by this action.

2. The claims of Emma Gardner, Louise Dixon and the heirs of Helen House are totally devoid of legal merit. There was animosity between their forebear and her male siblings (there is proof of this certainty), the land grantee and his brother John Meredith Jones; and to this defendant-appellant's personal knowledge there was never any challenge,visitations to the lands or claims to them by any of the Louise Jones Badham's heirs from 1936, when the legal platted claim was filed by C.S. Meekins, retired, for Frank R. Jones acting for himself and his two brothers and four sisters and not for his four

female first cousins once removed. These cousins were married to a banker, judge, lawyer and college professor/coach respectively by age, none of whom ever raised any claim whatsoever for the lands until they showed up as named defendants in the case below. They are excluded by adverse possession contrary to Judge Small's ruling in one of his acts of Judicial Misfeasance, as this defendant-appellant claimed in his timely answer filed on December 2, 1980.

3. Frank R. Jones fully acknowledged and confirmed the legitimate claims of the rightful owners/heirs, declared repeatedly in the pleadings of this defendant/appellant, when he turned the matter of defending the lands from right of way condemnation by Dare County of the roadway, which tranverses the entire land grant (which contradicts the statements in the appeal pending concerning the totality of the lands at issue) over to this defendant/appellant, who employed Attorneys Allstone J. Stubbs of Durham, N.C. and Wallace H. McCown of Manteo, N.C. to defeat that eminent domain actions, which is a matter of record in Dare County proceedings at the time.

4. This defendant-appellant specifically charges Judges Bruce, Small and Winberry with Malicious Abuse of Legal Process and Judicial Misfeasance. Furthermore, he charges Stephen R. Burch with suborning perjury from certain of his key witnesses.

5. Southhold Realty Corporation has absolutely no legal claim on the lands, which the Plaintiff seeks to acquire by condemnation, as errant as its pursuit of the statutory procedures has been in this case, whatsoever, and any claim they may have concocted was defeated in 1956, through the adverse possesion entitlement secured by Frank R. Jones for his siblings' heirs.

6. The lands belong to this defendant-appellant etux, Burton H. Jones, Meredith Webb Jones, William A.

Stewart (sole heir of Anne Jones Stewart, deceased) and Frances Marriner Ferguson, as has been clearly stated in all of this party's pleadings, but so far ignored.

7. The Plaintiff filed the Motion for a Guardian Ad Litem and Judge Small appointed Attorney Logan in the Malicious Abuse of Legal Process, confirming his recuseable prejudice against this defendant-appellant in ignoring the Affadavit filed with Judge Bruce and the Court that stated unequivocally that there were no unknown or unborn heirs of W.H. Jones, deceased, to warrant such a time consuming and costly appointment. This attorney is the only one to receive any remuneration in this sorry proceeding, while his appointment allowed several unlawful and false claimants into the proceedings, including the defendant-appellant Southhold Realty Corproration.

8. There is no legitimate deed from the widow of W.H. Jones to her second husband. In fact it is improbable that she ever formally remarried. For a certainity there are no valid deeds from any of the John Meredith Jones heirs to such a party as stated in the appeal pending. Even if they were they were not presented in time to estop the entilement acquired by Frank R. Jones for his niece, nephews and great nephew.

NOW THIS defendant-appellant et ux respectfully requests this Court of Appeals to throw out all of the Malicious Abuse of Legal Process that has encumbered this case, deny the appeal pending and order the Plaintiff to immediately disburse the deposited funds to the five legitimate owners declared herein, in equal shares, with legal interest from the date of deposit; and to order a jury trial, as requested originally, to determine the need as questioned by this defendant-appellant and to decide the fair legitimate market value of the lands, if the taking is upheld.

Done this the 31st day of January 1983.

Respectfully Submitted,

/s/ John Meredith Jones III
Defendant-Appellant et ux

524 W. Bay St. Villas
Winter Garden, FL 32787
(305) 656-5742
Witness: Elvira Cheatham Jones

III.

MEMORANDUM IN SUPPORT OF MOTION IN RESPONCE TO BRIEF AND FOR A JURY TRIAL

First Judicial District
North Carolina Court of Appeals
No. 821SC1315
State of North Carolina
v.
J. Meredith Jones et ux, et al
From Dare County, N.C.
No. 79 CVS 225

MEMORANDUM IN SUPPORT OF DEFENDANT/ APPELLANT ET UX'S MOTION FOR DENIAL OF APPEAL PENDING AND OTHER REQUESTS.

NOW COMES the defendant-appellant et ux and states that they are pleading this lawsuit PRO SE because they have hired two prominent members of the North Carolina Bar, W.H. McCown of Manteo and Graham M. Carlton of Salisbury to represent them in this proceeding and had to discharge both of them for incorrect and misleading advice. No other competent counsel in the first judicial district or elsewhere could be found to cope with the legal/judicial combination that has been encountered in the Malicious Abuse of Legal Process perpetrated in this case by the lawyers for certain named defendants and the pending appeal with the sitting judges.

The defendant-appellant et ux made four costly trips from their residence in Florida to Dare County on the advice of their former counsel, named herein, and accomplished absolutely nothing. After Judge Bruce ordered this party from his Court on January 19, 1981 (transcript of hearing on file with Clerk of the Court), and subseqently failed to act on the Affadavit, presented to him and filed with the Clerk, to preclude the appointment of the unwarranted Guardian Ad Litem, it became

obvious that Judicial Misfeasance was beginning to be practiced. Thus, when Judge Small refused to recuse himself for his prior injudicious actions against this party and began afresh his obvious connivance with the law firm of Pritchett, Cooke and Burch, representing certain named but illegitimate defendants, while disallwoing a jury trial to keep the matters at hand in his personal control contrary to this defendant-appellant's demand, there was no basis for attending the following non-jury hearings.

The claim that ownership of lands is a matter solely for judicial determination without jury, as proffered by the Plaintiff in one of its lame attempts to substantiate its errant procedure in this case, is totally without legal merit or precedent. The law firm of Pritchett, Cooke and Burch, with the indirect assistance of Judge Small and the direct ruling of Judge John Webb, had a fee simple deed for $10. and other valuable consideration drawn by their firm for a one-half interest in 1747 acres of valuable farm and timberlands invalidated through the ruse of a verdict by a barely propertied jury in Windsor, N.C. in June 1973, in N.C. Case No. 70 CVS 392. The legal/judicial system appears in North Carolina to work whichever way the lawyer/judge combination prefers at the time of a confrontation.

Papers filed by this defendant-appellant et ux in this case have been eliminated from this record on appeal (as cited herein) and the lawyers for the pending appeal have incurred considerable expense to try to impress this Court with the legitimacy of their fraudulent claim to the lands belonging to this defendant-appellant et ux and his immediate kinsmen, named herein and repeatedly throughout all of his pleadings PRO SE. They must be worth considerably more than the $250,000. put forth by Stephen R. Burch for his mixed bag of clients (some legitimate and some totally unlawful) in their answer,

and of course, confirms the completely inadequate deposit posted and withheld by the Plaintiff in this opprobrious action.

For the record again, the lands, all of them in their original land granted entirety, devoid of any legal encroachment by anyone whomsoever, belong to the legitimate owners/heirs, namely: J. Meredith Jones et ux, Burton H. Jones, Meredith Webb Jones, William A. Stewart and Frances M. Ferguson, in equal shares.

Respectfully submitted this 31st day of January 1983.

/s/ John Meredith Jones, III
Defendant-Appellant et ux
(305) 656-5742

IV.

DISMISSAL OF PETITIONS BY U.S. COURT OF APPEALS FOR FOURTH CIRCUIT

United States Court of Appeals
for the Fourth Circuit
No. 83-1386

In re:
J. Meredith Jones, et ux, *Petitioners*
On Petition for Writ of Mandamus
Submitted: June 6, 1983 Decided: July 11, 1983
Before PHILLIPS, MARNAGHAN and CHAPMAN, Circuit Judges.

PER CURIAM:

J. Meredith Jones has applied for a writ of mandamus seeking to remove a civil action from the North Carolina state courts to the Eastern District of Virginia. Petitions for removal are to be filed in the appropriate district court. 28 U.S.C. § 1446.

Extraordinary writs are not a proper substitute for available procedures in civil actions. Moreover, filing a petition for removal in a civil action has the effect of halting all state court procedings. 28 U.S.C. § 1446 (e). This Court has no mandamus jurisdiction over courts of the State of North Carolina. **Gurley v. Superior Court of Mecklenburg County,** 411 F. 2d 586 (4th Cir. 1969).

As the Court does not have proper jurisdiction to entertain a petition for a writ of mandamus in this instance, the petition is dismissed.

V.

PETITION FOR REMOVAL AND WRIT OF MANDAMUS

United States Court of Appeals
Fourth Circuit
Richmond, Virginia

State of North Carolina
v.
J. Meredith Jones, III et ux, et al
Dare Co. NC Superior Court
Civil Case No. 79 CVS 225
From and
N.C. Court of Appeals
Pending No. 832SC1315

NOW COMES John Meredith Jones, III, a defendant/appellant et ux, in North Carolina Civil Case No. 79 CVS 225 in the Superior Court of Dare County, North Carolina as appealed and now pending in the North Carolina Court of Appeals with the assigned No. 821SC1315; and declares that injudicial actions in both of these jurisdictions have denied these United States citizens due process under the law as guaranteed by the United States Constitution in depriving them of property without a jury trial demanded by them as their right.

Additionally the original Court committed Malicious Abuse of Legal Process by the actions of a presiding Judge, which allowed several unlawful parties into the lawsuit, after he refused to recuse himself as requested by these petitioners for gross prejudice against them involving their 18 year old son in a prior hearing. When the non-jury ruling of another presiding Judge was appealed by one of the unlawful parties cited above, the Appellate Panel ruled against Motions by these petitioners for denial of the appeal, restoration of the proceeding to a jury trial, and the recusal or removal of

one of its members, who is not only prejudiced against these petitioners as evidenced by the gross injustice he handed them in North Carolina Case No. 70 CVS 392, but he ignored and invalidated the time honored legal principle of **stare decisis** by reforming a deed in fee simple belonging to these petitioners to condone the trespass of more than a million dollars worth of stumpage STOLEN by the corporate adversary in the case.

It is, therefore, respectfully requested that the case in question as appealed be removed from the North Carolina State Courts to Federal jurisdiction, as provided under U.S.C. § 1332 and 1441 et. seq. These petitioners are natural United States citizens and residents of the State of Florida with their principal address at 524 W. Bay St. Villas, Winter Garden, Florida; while the plaintiff in the case is the sovereign State of North Carolina with all but one of the other parties claiming to be citizens of North Carolina. The amount involved in this controversy exceeds $10,000, exclusive of interest and costs; and these petitioners have complied with all time requirements in the case below and as appealed. These petitioners are able, to post whatever minimum surety bond that may be required, pay all necessary filing fees, and to diligently comply with all other Federal rules as they are instructed, including the filing of a copy of all process, pleadings and orders served upon them when so notified.

NOW THEREFORE this Petition for Removal is submitted as joined with a Petition for a Writ of Mandamus in the United States Court of Appeals for the Fourth Circuit. The United States District Court for the District of Eastern North Carolina, where the property in the controversy is located, is unable to provide an impartial forum for these petitioners. The Chief Judge of the District Court has clearly evidenced his complete prejudice against them by his entirely adverse ruling on a

requested depostion of an attorney /deponent witness vital to their prosecution of U.S. Case No. 76-254-Orl-Civ-R. Even if this Jurist recused himself, his position and influence on the Court precludes justice for these petitioners in his jurisdiction.

This Petition for Removal and Writ of Mandamus is respectfully submitted this 15th day of April 1983.

Most sincerely yours,

/s/ John Meredith Jones, III, Pro Se
Defendant/Appellant/Petitioner
524 W. Bay St. Villas
Winter Garden, FL 32787
(305) 656-5742

Witness: /s/ Elvira C. Jones (Spouse)

VI.

MEMORANDUM IN SUPPORT OF PETITION FOR REMOVAL & WRIT OF MANDAMUS

United States Court of Appeals
for the Fourth Circuit
Richmond, Virginia

State of North Carolina

v.

J. Meredith Jones et ux, et al.

Dare C. NC Superior Court
Civil Case No. 79 CVS 225

From

N.C. Court of Appeals
Pending No. 821SC1315
Docket No. 83-1386

NOW COMES the Petitioner et ux, JOHN MEREDITH JONES, III, and declares the attached lower court documents and appeals court papers will show that on December 5, 1979, the State of North Carolina filed an eminent domain action seeking to reacquire certain lands situated in Dare County, North Carolina, belonging to these Petitioners and others named among the Defendants and unnamed in the Complaint. A Declaration of Taking and Notice of Deposit with a Twelve Months' Summons for Relief, as required by N.C statute, also were filed simultaneously. On December 2, 1980, well within the prescribed time, these Petitioners filed their answer, including two unnamed owners, Frances M. Ferguson and William A. Stewart, and two of the named Defendants, Burton H. Jones and Meredith W. Jones, declaring their ownership to the exclusion of all other parties named or undisclosed by heritage and legally recognized adverse possesion. In this Answer it was specifically requested that failing dismissal that all issues such as authority, necessity, ownership and

damages for taking be tried by a jury. This right under the due process clause of th United States Constitution has been denied completely by the several judges hearing the case in the lower court and the judgment rendered, as appealed, was without a jury; likewise the appellate panel has denied these Petitioners' motion to restore the case to a jury trial.

On February 2, 1981, fifty-nine days after the expiration of the Twelve Months Summons for Relief, the Plaintiff State of North Carolina filed a Motion for the Appointment of Guardian Ad Litem, and on April 1, 1981, these Petitioners filed in the court and hand delivered to the presiding judge an Affidavit stating unequivocally that all of the parties with an ownership interest in the property involved in the action were properly before the court, thereby precluding the unwarranted appointment. This Affidavit prepared and presented on the advice of competent counsel was ignored and on July 1, 1981, a Guardian Ad Litem was appointed by the presiding resident judge, in the initial accommodating act of Malicious Abuse of Legal Process, to void both the statutory and abitrarily extended dates for default in filing lawful answers. All parties brought into the case after May 21, 1981, are unlawful and their presence is the result of gross misfeasance by the judiciary involved.

In anticipation of prejudice and injustice, these Petitioners on June 15, 1981, prior to the appointment of the unnecessary Guardian Ad Litem, who subsequently loaded the action with unlawful parties on second thoughts and recanted testimony, filed a Motion for Resident Judge J. Herbert Small to Recuse Himself or be Removed based on his previous injustice cited in the Motion (it was gross).As expected Judge Small on July 9, 1981, three weeks after he was requested to step down and one week after he initiated Malicious Abuse of Legal Process with his Guardian Ad Litem appointment,

denied these Petitioners' Motion for recusal and proceeded to conduct nonjury hearings, as evidenced by his two additional orders issued on that date and his final non-jury adjudication of October 1, 1981, in which these Petitioners were denied their lawful interest in the property as claimed in their timely Answer without a jury or their appearance at any of the non-jury assemblies, which were unrelated to due process in any sense of the principle.

As these injudicial proceedings continued adversely to these Petitioners' rights guaranteed by the U.S. Constitution, they filed on Novermber 12, 1981, a Motion for Relief and Disbursement of the deposited funds, which was ignored. And upon notice of the scheduling of a non-jury trial these Petitioners filed on the second anniversary of their ititial receipt of the Complaint on February 22, 1980, (un-officially forwarded to them by one of the other lawful and named Defendants, who was served properly) a Motion for Jury Trial and Exclusion of Unlawful Parties.

On June 1, 1982, a non-jury trial was convened and the Judgment handed down by the presiding judge confirmed and continued Judge Small's denial of these Petitioners' lawful ownership of the property involved without any semblance of due process.

These Petitioners gave notice of appeal and upon the filing of a brief by one of the unlawful parties let into the case by the Malicious Abuse of Legal Process cited herein, they filed with the Appeals Court a Motion in response to the Brief and for a Denial of the Appeal Pending again requesting specifically that the appellate panel restore the case to a jury trial as originally pleaded and as is these Petitioners' right as United States citizens abiding as they do under the Federal Constitution. This Motion was denied as advised by the Clerk of the Court on the February 16, 1983, as was the subsequent Motion

for one of the Appellate judges to recuse himself or be removed and all of the record in which he participated be expunged, as noticed by Clerk Dail on March 10, 1983.

NOW THEREFORE these Petitioners believe that the Plaintiff, State of North Carolina, has clearly displayed its disdain for the U.S. Constitution and the sanctity of its own legal instruments by its wanton conduct of this eminent domain action in which four of its native sons and a daughter with their spouses and heirs are being denied their lawful interests in an ancestral landgrant from that state, secured for them solely by direct inheritance and legally recognized adverse possesion of immediate family members,including and for the benefit of these Petitiooners, without due process of any description. This grossly prosecuted action was deliberately instituted and rendered unConstitutional by the Plaintiff, which has declared itself against due process and encourages a mockery of it whenever allowed, (as in N.C. Case No. 70 CVS 392.),with the accommodating Malicious Abuse of Legal Process cited herein. It is hereby respectfully requested that this U.S. Court of Appeals for the Fourth Circuit remove this action in its entirety from all North Carolina courts at every level and place it in a suitable Federal Jurisdiction. Since the U.S. District Court for Eastern North Carolina headed by Chief Judge Frank T. Dupree, Jr. is completely prejudiced against these Petitioners as evidenced by his denial of a vital depostion of A.A. Zollicoffer, Jr., Esquire in U.S. Case No. 76-254-Orl-Civ-R and recorded in the official file for that case on August 15, 16, 17 and especially 25, 1978, also September 18, 20, and 21, 1978, with his position and influence on the Court being such to preclude impartiality and justice in that jurisdiction wherein the property is situated; these Petitioners greatly prefer the removal of the case to the U.S. District Court for Eastern Virginia sitting in Norfolk, Virginia, 118

miles closer to the landgranted property than is Raleigh, North Carolina.

As stated in Title 28, U.S.C.A. § 1651, the Courts established by the Congress are authorized to issue all necessary writs, but the Writ of Mandamus has been abolished in the District Courts. A Writ of Mandamus has been considered appropriate and granted for Condemnation Proceedings, such as this case at hand.

Respectfully submitted,

/s/ John Meredith Jones, III
Petitioner et ux, Pro Se
524 W. Bay St. Villas
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